



02-CV-02399-ANS

The Honorable John C. Coughenour
CC TO JUDGE DJ

FILED ENTERED

LOGGED RECEIVED

2003 DJ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BY
CLERK OF COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

HEATHER L. STODDARD,

Plaintiff,

v.

CITY OF SEATTLE, et al.,

Defendants.

No. C02-2399C (BJR)

WTO Proceeding

DEFENDANT CITY OF SEATTLE'S
ANSWER AND AFFIRMATIVE
DEFENSES

JURY DEMAND

Defendant City of Seattle, by and through its counsel of record, Stephen Larson and Raul Martinez of Stafford Frey Cooper, P.C., in answer to plaintiff's complaint admits, denies, and alleges as follows:

I. ANSWER

1. Answering paragraph 1, defendant denies that the acts alleged occurred, but admit that this is a civil action against the defendant and that it alleges those causes of actions specified.

2. Answering paragraphs 2 and 3, defendant denies that the acts alleged occurred, but admits that jurisdiction is proper in this court.

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 1
C02-2399C (BJR)

STAFFORD FREY COOPER

Professional Corporation
ATTORNEYS

2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

ORIGINAL

1 3. Answering paragraph 4, defendant denies that the acts alleged occurred, but
2 admits that the acts are alleged to have occurred in King County, Washington and that the
3 City of Seattle is a Washington State entity. Defendant denies all other allegations.

4 4. Answering paragraph 5, defendant denies for lack of information.

5 5. Answering paragraph 6, defendant admit that venue is proper in this court.

6 6. Answering paragraph 7, defendant admits that it is a municipal organization
7 organized under the law of Washington and that plaintiff is suing under 42 USC § 1983 and
8 under the doctrine of *respondeat superior*. Defendant denies all other allegations for lack
9 of information.
10

11 7. Answering paragraphs 8, 9, 10, and 11 defendant denies for lack of
12 information.
13

14 8. Answering paragraphs 12, defendant admits that WTO meetings took place in
15 a general vicinity of Seattle sometimes referred to as "downtown Seattle."

16 9. Answering paragraphs 13, defendant admits that many people gathered to
17 protest, some peacefully, others not. All other allegations are denied.

18 10. Answering paragraphs 14, defendant denies the same.

19 11. Answering paragraphs 15, defendant admits that the Seattle Police
20 Department detailed certain officers to patrol the streets in the "downtown Seattle" area on
21 November 30, 1999. Defendant admits that some officers wore protective clothing. All
22 other allegations are denied.
23

24 12. Answering paragraphs 16, defendant admits that, as provided for in the
25 Seattle Police Department's Manual and in its rules and regulations, some Seattle police
26

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 2
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER

Professional Corporation
ATTORNEYS

2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

1 officers are authorized to and do carry a chemical restraint. All other allegations are
2 denied.

3 13. Answering paragraphs 17, defendant denies the same.

4 14. Answering paragraphs 18 - 23, defendant admits that at sometime on
5 November 30, 1999, officers of the Seattle Police Department were lined up on Union
6 Street near 6th Ave., facing a large crowd of protestors. Defendants admit that a chemical
7 restraint was used in the attempt to move the crowd that was blocking the street. Except
8 as specifically admitted, all other allegations are denied.
9

10 15. Answering paragraphs 24 and 25, defendant denies that it failed to properly
11 supervise or train those for whom it is responsible to supervise and train.

12 16. Answering paragraph 26, defendant denies the same.

13 17. Answering paragraph 27, defendant denies the same.

14 18. Answering paragraph 28, defendant responds to the realleged accusations as
15 indicated above.
16

17 19. Answering paragraph 29, defendant denies that the acts and omissions
18 described by plaintiff occurred and admits that it acted in accordance with the law.
19 Defendant denies any remaining allegations.
20

21 20. Answering paragraph 30, defendant denies for lack of information.

22 21. Answering paragraphs 31 and 32, defendant denies the same.

23 22. Answering paragraph 33, defendant responds to the realleged accusations as
24 indicated above.
25
26

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 3
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER

Professional Corporation

A T T O R N E Y S

2500 RAINIER TOWER

1301 FIFTH AVENUE

SEATTLE, WASHINGTON 98101-2621

TELEPHONE (206) 623-9900

1 23. Answering paragraph 34, defendant denies that the acts and omissions
2 described by plaintiff occurred and admits that it acted in accordance with the law.
3 Defendant denies any remaining allegations.

4 24. Answering paragraph 35, defendant denies same.

5 25. Answering paragraphs 36 and 37, defendant denies that it violated any
6 federally protected right of plaintiff.
7

8 26. Answering paragraph 38, defendant denies same.

9 27. Answering paragraph 39, defendant responds to the realleged accusations as
10 indicated above.

11 28. Answering paragraph 40, defendant denies that the acts and omissions
12 described by plaintiff occurred and admits that it acted in accordance with the law.
13 Defendant denies any remaining allegations.
14

15 29. Answering paragraph 41, defendant denies same.

16 30. Answering paragraphs 42 and 43, defendant denies that it violated any
17 federally protected right of plaintiff.

18 31. Answering paragraph 44, defendant responds to the realleged accusations as
19 indicated above.

20 32. Answering paragraph 45, defendant denies that the acts and omissions
21 described by plaintiff occurred and admits that it acted in accordance with the law.
22 Defendant denies any remaining allegations.
23

24 33. Paragraph 46 states a conclusion of law and thus requires no answer, and to
25 the extent one is required, defendant denies any factual allegations.
26

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 4
C02-2399C (BJR)

STAFFORD FREY COOPER

Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

1 34. Answering paragraphs 47 and 48, defendant denies that it violated any
2 federally protected right of plaintiff.

3 35. Answering paragraph 49, defendant responds to the realleged accusations as
4 indicated above.

5 36. Answering paragraph 50, defendant admits that Norm Stamper was the Chief
6 of Police at all times material to the amended complaint and that the City of Seattle had in
7 effect various lawful policies and practices. Defendant denies that one of its policies,
8 practices, or customs is to use chemical weapons against innocent civilians. Except as
9 specifically admitted, all other allegations are denied.
10

11 37. Answering paragraphs 51 and 52, defendant denies the same.

12 38. Answering paragraph 53, defendant admits that Norm Stamper was the Chief
13 of Police at all relevant times and was responsible for police policy. Except as specifically
14 admitted, all other allegations are denied.
15

16 39. Answering paragraphs 54 - 57, defendant denies the same.

17 40. Paragraphs 58 and 59 state conclusions of law and thus require no answer,
18 and to the extent one is required, defendant denies any factual allegations.

19 41. Answering paragraphs 60 - 64, defendant denies same.

20 42. Answering paragraph 65, defendant responds to the realleged accusations as
21 indicated above.
22

23 43. Paragraph 66 states conclusions of law and thus requires no answer, and to
24 the extent one is required, defendant denies any factual allegations.

25 44. Answering paragraphs 67 - 69, defendant denies same.
26

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 5
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER

Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

45. Answering paragraph 70, defendant responds to the realleged accusations as indicated above.

46. Paragraphs 71 - 74 states conclusions of law and thus require no answers, and to the extent answers are required, defendant denies any factual allegations.

47. Defendant denies all allegations set forth in plaintiff's prayer for relief and denies that plaintiff is entitled to the remedy sought.

II. JURY DEMAND

Pursuant to the Constitutions of both the United States and Washington, defendants request a trial by jury.

III. AFFIRMATIVE DEFENSES

FOR FURTHER ANSWER AND BY WAY OF AFFIRMATIVE DEFENSES,
defendants allege as follows:

1. Plaintiff's complaint fails to state a cause of action against any defendant upon which relief can be granted.

2. Plaintiff has not stated a cause of action against the City of Seattle under 42 U.S.C. § 1983 upon which relief can be granted.

3. Defendants acted at all times within the course and scope of their employment, with lawful justification, with probable cause, properly and reasonably, in good faith and without bias or malice in the performances of their duties and are entitled to qualified immunity.

4. If plaintiff sustained any injuries or damages as alleged in her complaint, which defendants categorically deny, those injuries or damages were caused or contributed

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 6
C02-2399C (BJR)

STAFFORD FREY COOPER

Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

1 to by others than the named defendants over whom defendants have no control and for
2 whom defendants have no responsibility. Those claims, therefore, must be dismissed.

3 5. If plaintiff sustained any injuries or damages as alleged in the complaint,
4 which defendants categorically deny, plaintiff caused or contributed to those injuries or
5 damages as a result of plaintiff's contributory fault and/or willful and/or wanton misconduct.
6 Those claims, in whole or in part, therefore are barred.
7

8 6. Plaintiff's damages, if any, were caused by improper and/or unlawful
9 activities, which bar any right to recovery in this case and/or the law of comparative fault
10 applies.

11 7. Defendants had just cause for their actions.

12 8. Defendants' actions were privileged.

13 9. Plaintiff brings this suit with unclean hands.

14 10. Plaintiff has brought this suit prematurely.

15 11. Plaintiff's complaint is barred by the statute of limitations.

16 12. Plaintiff's injuries and damages, if any, arose out of circumstances and events
17 which plaintiff had prior knowledge and to which plaintiff voluntarily subjected herself.
18

19 13. Plaintiff has failed to mitigate her damages, if any, and to protect herself from
20 avoidable consequences.
21

22 14. Plaintiff's process and/or service of process is insufficient as to all defendants.

23 15. "John Does" have not been served and are not proper parties.

24 16. Defendants reserve the right to assert such additional affirmative defenses as
25 discovery in this matter may reveal to be appropriate.
26

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 7
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER

Attorneys
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

III. PRAYER FOR RELIEF

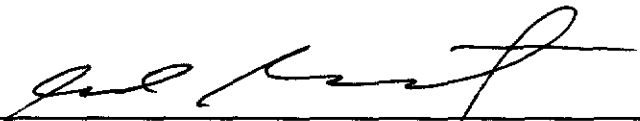
WHEREFORE, having fully answered the allegations contained in the plaintiff's complaint, defendants request that the Court take the following action:

1. Dismiss plaintiff's complaint with prejudice;
2. Order that the plaintiff take nothing thereby;
3. Require plaintiff to pay all of defendants' costs, disbursements and reasonable attorney fees in defending this action;
4. Award defendants judgment of dismissal; and
5. Grant defendants such other and further relief in their favor as the Court deems equitable and just.

DATED this 18th day of July, 2003.

STAFFORD FREY COOPER
Professional Corporation

By


Stephen P. Larson, WSBA #4959
Raul Martinez, WSBA #31848
Attorneys for Defendant City of Seattle

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 8
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER
Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900

Certificate of Service

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **DEFENDANT CITY OF SEATTLE'S ANSWER AND AFFIRMATIVE DEFENSES** on the following individual:

John R. Muenster, Esq.
Muenster & Koenig
Suite 4100
999 Third Avenue
Seattle, WA 98104

☐ Via Facsimile
☐ Via Mail
☒ Via Messenger

DATED this 18th day of July, 2003, at Seattle, Washington.


Betty A. Mantach

DEFENDANT CITY OF SEATTLE'S ANSWER AND
AFFIRMATIVE DEFENSES, JURY DEMAND - 6
C02-2399C (BJR)

Q:\CLIENTS\3000\000\3019\21064\PLEADINGS\ANSWER.DOC

STAFFORD FREY COOPER
Professional Corporation
ATTORNEYS
2500 RAINIER TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2621
TELEPHONE (206) 623-9900